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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,422	08/27/1999	PETER PAUL CAMILLE DE SCHRIJVER	Q55464	7818

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EXAMINER

HOANG, THAI D

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/384,422	DE SCHRIJVER ET AL.
	Examiner Thai D Hoang	Art Unit 2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 May 2004.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3-7 and 9-12 is/are rejected.
- 7) Claim(s) 8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 3, 5-7, 9-12 are rejected under 35 U.S.C. 102(e) as being unpatentable over Chuah et al., US patent No. 6,519,254 B1, hereafter referred to as Chuah.

Regarding claims 3 and 7, Chuah discloses a method and system called Resource Reservation Protocol (RSVP) based tunnel protocol providing integrated services. Chuah discloses that the system comprises an Internet Service Provider (ISP) 15, which sends data to a second network that is connected with another Internet Service Provider 25 by a T1/E1 link 21, wherein the Internet provider 15 performs as a tunnel source point (TSP) and the Internet provider 25 performs as a tunnel destination point (TDP). Chuah teaches that when a new end-to-end RSVP PATH message

(request message) reaches the TSP, the TSP simply encapsulates the end-to-end RSVP PATH message. Attached to the RSVP PATH message are the Sender TSpec object and the ADSPEC object, wherein the Sender Tspec object specifies the flow characteristics the sender is capable of sending; figs. 2-5; col. 1, lines 29-30; col. 3, lines 4-8; col. 4, lines 60-62 (data sending means (DSM), adapted to send said data towards said DRE; service level requesting means for generating an Internet Protocol Control Protocol (IPCP) message, for sending to said DRE, requesting a service level for communicating said data of said DTE over said second communications network). Furthermore, Chuah discloses the TDP determines the appropriate RSVP tunnel for this end-to-end RSVP session (see algorithm col. 6-11), if admitted (step 230 of FIG. 5) forms a TUNNEL\_BINDING object for notifying the TSP of the session to tunnel binding. In response to the received TUNNEL\_BINDING object, the TSP uses the tunnel assigned by the TDP for the end-to-end RSVP session; figs. 2-5; col. 5, lines 5-18 (service level proposal receiving means: adapted to receive from said DRE an IPCP message indicating a proposed service level that said DRE can provide for communicating said data of said DTE over said second communications network, and notifying said DSM of said service level proposal.)

Regarding claims 5-6, 9-12, the TDP 25 disclosed by Chuah inherently comprise a data receiving means for receiving incoming data from Internet 50 (data receiving means (DRM), adapted to receive said data from said DTE). Chuah discloses that the TDP receives RSVP PATH message (request message) from TSP (fig. 4), wherein the RSVP PATH message includes Sender Tspec object comprising characteristics

average bit rate ( $r_i$ ), peak bit rate ( $p_i$ ), time delay ( $d_i$ ) for communicating with another end system; col. 4, line 59-col. 5, line 23; col. 6, line 15-18 (service level request reception means for receiving an Internet Protocol Control Protocol (IPCP) message, from said DTE, indicating a requested service level for said communicating of said data of said DTE over said second communications network). Furthermore, Chuah teaches that the TDP calculates and determines service level for TSP based on requested service level received from TSP and RSVP RESV message. The TDP, in accordance with the invention, determines the appropriate RSVP tunnel for this end-to-end RSVP session by executing a receiver-driven tunnel assignment/admission control procedure (step 225 of FIG. 5) and, if admitted (step 230 of FIG. 5) forms a TUNNEL\_BINDING object for notifying the TSP of the session to tunnel binding. The TDP then encapsulates the end-to-end RSVP RESV message (along with the attached TUNNEL\_BINDING object) and sends it to the TSP (step 240 of FIG. 5); figs. 2-5; col. 5, lines 6-15 and 55-60; col. 12, line 64-col. 13 line 6 (service level negotiating and proposing means, for determining a service level that said DRE can provide for communicating said data of said DTE with said second communications network, based on at least one predetermined criterion and on said requested service level, and formulating, as a service level proposal, an IPCP message indicating said determined service level; and service level proposal sending means, coupled with said service level negotiating and proposing means, for sending said IPCP message as said service level proposal.)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah et al., US patent No. 6,519,254 B1, hereafter referred to as Chuah.

Regarding claim 4, Chuah teaches that the system performs functions as recited in claims 4 and 8; col. 4, line 60-col. 5, line 20 and col. 12, line 50-col. 13, line 11. Chuah does not explicitly disclose a structure of the system to perform those functions. However, in order to perform the functions, the system disclosed by Chuah must have a plurality of elements, which are interconnected to implement the functions of the system.

#### ***Allowable Subject Matter***

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 05/24/2004 have been fully considered but they are not persuasive.

In the remarks, p. 12, line 14 - p. 13, line 4, Applicants argues that Chuah fails to teach or suggest service level proposal receiving means. Examiner believes that the TSP receives the RSVP RESV message sent from TDP, that includes

TUNEL\_BINDING object, it indicates that the TSP comprises a service level proposal receiving means. In addition, Applicants argue, "Chuah fails to teach or suggest service level requesting means for requesting a service level". Examiner respectfully disagrees. Since the specification does not disclose or suggest a specific parameter represent for a service level (page 4, lines 5-10). Therefore, parameters contained in the Sender Tspec object attached to the request RSVP PATH, such as average bit rate ( $r_i$ ), peak bit rate ( $p_i$ ), time delay ( $d_i$ ), disclosed in Chuah's reference represent a requested service level.

Page 13, lines 5-9, Applicants argue "no negotiation is being performed" in the Chuah's reference. Examiner believes that this argument is not relevant because it is directed to subject matter not found in claim 3.

Page 13, lines 12-18, Applicants argue the tunnel to be used between TSP and TDP "not for communication over the other network". Examiner respectfully disagrees. Applicants are directed to fig. 3, col. 4, lines 2-21, where the reference discloses another network connects to the ISP 25 by a T1/E1 line 21.

Regarding claims 5-6, Applicants' interpretation on pages 15-16 is not correct. Applicants are directed fig. 4-5 and col. 4, line 53-col. 5, line 29 for understanding the reference.

Regarding claim 7, since claim 7 contains limitations similar to the limitations recited in claim 3; therefore, Applicants' arguments are responded as shown above with respect to claim 3.

Regarding claims 9-11, since claims 9-11 contain limitations similar to the limitations recited in claim 5; therefore, Applicants' arguments are responded as shown above with respect to claim 5.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai D Hoang whose telephone number is (703) 305-3232. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (703) 305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thai Hoang

KWANG BIN YAO  
PRIMARY EXAMINER

